THE HONOURABLE SRI JUSTICE J. CHELAMESWAR

AND

THE HONOURABLE SRI JUSTICE D. APPA RAO

W.P. Nos. 6595/2006, 7007/2006, 7037/2006, 7793/2006, 8806/2006, 8807/2006, 9810/2006 and 10679/2006

COMMON ORDER (Per Hon'ble Sri Justice J. Chelameswar)

W.P. No. 6595 of 2006

This Writ of Habeas Corpus is filed by the husband of one Smt. Kunchapu Dhanamma. The said Kunchapu Dhanamma was detained by an order, dated 18.02.2006 of the 1st respondent. Subsequently, the case of the above detenue was referred to the Advisory Board, which appears to be recommended for the continuance of the said Kunchapu Dhanamma in preventive detention. Thereupon, the 2nd respondent issued orders in G.O.Rt. No. 1505, General Administration (Law & Order.II) Department, dated 17.03.2006. The relevant portion of the order reads as follows:-

"GOVERNMENT OF ANDHRA PRADESH

ABSTACT

The A.P. Prevention of Dangerous Activities of Bottleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (Act No.1 of 1986) – Krishna District – Order of detention made by the Collector and District Magistrate, Krishna District idn respect of Smt. Kunchapu Dhanamma w/o Sri Nukaraju, resident of Mittagudem of Jaggaiahpeta Town, Krishna District, aged 35 years – Confirmed – Orders – Issued.

GENERAL ADMINISTRATION (LAW & ORDER.II) DEPARTMENT

G.O.Rt. No. 1505 Dated: 17.03.2006

Read the following:-

1. Order of detention passed by the Collector and District Magistrate, Krishna District, Rc. Nos. 125/2006/A2, dt. 18.02.2006

2. G.O.Rt. No. 1035, G.A. (L&O.II) Dept., dated 28.02.2006

3. From the Advisory Board Report, dated 09.03.2006.

ORDER

WHEREAS, the Collector and District Magistrate, East Godavari District, made an order of detention vide reference first read above under Section-3 of the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (Act No. 1 of 1986) in respect of Smt. Kunchapu Dhanamma w/o Sri Nukaraju, resident of Mittagudem of Jaggaiahpeta Town, Krishna District, aged 35 years, with a view to prevent her from further indulging in a manner prejudicial to the maintenance of public order.

AND WHEREAS, the Government accorded approval to the said detention order under sub-section (3) of Section-3 of the Act, vide Government order 2nd read above.

AND WHEREAS, the Advisory Board constituted under Sections-9 of the said Act, consisting of Sri Justice T.L.N. Reddy (Retired), Chairman, Advisory Board and two other Members, reviewed the case on 09.03.l2006. After having perused the grounds of detention and all the connected records, the detenu, who has been produced before them the Advisory Board has reported vide reference 3rd read above that in its opinion "there is sufficient cause for the detention of the detenue Smt. Kunchapu Dhanamma w/o Sri Nukaraju, resident of Mittagudem of Jaggaiahpeta Town, Krishna District.

NOW, THEREFORE, after due consideration of the report of the Advisory Board and the material available on record, Government, in exercise of the powers conferred under sub-section (1) of Section 12 read with Section 13 of the said Act, hereby confirm the said Order of Detention and direct that the detention of Smt. Kunchapu Dhanamma, w/o Sri Nukaraju, resident of Mittagudem of Jaggaiahpeta town, Krishna District be continued for a maximum period of 12 months from the date of her detention, i.e., 19.02.2006.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

T.K. DEWAN

CHIEF SECRETARY TO GOVERNMENT"

Hence, the present writ petition.

The learned counsel for the petitioner raised various grounds of attack on the order of detention as extended by the order, dated 17.03.2006. It may not be necessary to go into each one of this ground, except the ground that the order, dated 17.03.2006, purports to extend the detention for a period of twelve months from the date of her

detention i.e. 19.02.2006. The learned counsel submitted that such an order is contrary to Section 3 sub-section (2) of the Andhra Pradesh Prevention of Dangerous Activities of Booptleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (hereinafter referred to as 'the Act'). Section 3 of the Act insofar as it relevant is as follows:-

> 4. Power to make orders detaining certain persons:- (1) The Government may, if satisfied with respect to any bootlegger, dacoit, drug-offender, goonda, immoral traffic offender or land-grabber that with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, it is necessary so to do, make an order directing that such person be detained.
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> (2) If, having regard to the circumstances prevailing or likely to prevail in any area with the local limits of other jurisdiction of a District Magistrate or a Commissioner of Police, the Government are satisfied that it is necessary so to do, that may, by order in writing, direct that during such period as may be specified in the order, such District Magistrate or Commissioner of Police may also, if satisfied as provided in sub-section (1) exercise the powers conferred by the said sub-section.
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> Provided that the period specified in the order made by the Government under this sub-section shall not in the first instance, exceed three months, but the Government may, if satisfied as aforesaid that it is necessary so to do, amend, such order to extend such period, from time to time by, any period not exceeding three months at any one time.
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> (3) When any order is made under this section by an Officer mentioned in sub-section (2), he shall forthwith report the fact to the Government together with the grounds on which the order has been made and such other particulars as in his opinion, have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof, unless, in the meantime, it has been approved by the Government.

A plain reading of the sub-section (2) of the proviso make it abundantly clear that while the Government is authorized to extend the period of detention from time to time from a maximum period of one year, but none of such extensions shall exceed the period of three months at a time.

The learned Advocate General appearing for the respondents argued that in view of the provisions contained in Sections 12 and 13 of the Act, wherever the Advisory Board opined that there is sufficient cause for the detention of a person, the Government is authorized under the Act to continue the detention for a maximum period of twelve months from the date of detention. Therefore, the order of the State Government, dated 17.03.2006, referred to earlier is legal and valid.

We are afraid that we are not in a position to accept the submission made by

the State. It is a settled proposition of law that no part of enactment can be read in isolation. The entire enactment is to be read as a whole and if there are provisions apparently conflicting with each other, the provisions are required to be read in harmony. In the instant case, we do not even find any conflict between the provisions of Sections 12 and 13 and the proviso to sub-section (2) of Section 3 of the Act. Section 13 of the Act only stipulates the maximum period for which a person can be detained under the Act. Whereas, Section 3 sub-section (2) proviso specifies as to how the power to detain a person for a maximum period of twelve months is to be exercised. The language is very clear indicating that the initial order of detention shall not authorize the detention for a period beyond three months and any further extension, if otherwise justified shall also not exceeded the time for a period of three months and at any rate after the expiry of total period of one year after successive of extensions there cannot be any extension at all under the scheme of the act. We are fortified in our view with the earlier decision of this Court in W.P. No. 7913 of 2006, dated 30.05.2006.

In view of the said conclusion, we do not think that the profitable to discuss various other grounds attacked in the petition.

The writ petition is allowed, quashing G.O.Rt. No. 1505, dated 17.03.2006.

W.P. Nos. 7007/06, 7037/2006, 7793/2006, 8806/2006, 8807/2006, 9810/2006 and 10679/2006

In all these writ petitions, the detention orders passed on various dates under the Act are in challenge on various grounds. One of the grounds is that though initially the order of detention was passed for a period of three months, subsequently, after the detention was reviewed by the Advisory Board, the State Government of Andhra Pradesh took a decision to extend the detention for the maximum period of twelve months in one stroke. For the reasons given in W.P. No. 6595 of 2006 such an extension is clearly illegal and on that ground alone, all these writ petitions are required to be allowed and in view of such a conclusion, we do not see any necessity to go into the factual details of each one of the cases or discuss various other grounds raised in each one of the writ petition.

All these writ petitions are, therefore, allowed, setting aside the orders of extension passed in each one of those cases.

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J. CHALEMESWAR, J

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D. APPA RAO, J

13th June, 2006

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NOTE

CC by today

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